



Senate

General Assembly

File No. 630

February Session, 2004

Substitute Senate Bill No. 259

Senate, April 20, 2004

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CREATING A SMALL BUSINESS OFFICE WITHIN THE
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-168a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section:

4 (1) "Agency", "proposed regulation" and "regulation" shall have the
5 same meanings as provided in section 4-166; and

6 (2) "Small business" means a business entity, including its affiliates,
7 that (A) is independently owned and operated, and (B) employs fewer
8 than fifty full-time employees or has gross annual sales of less than
9 five million dollars, provided that an agency, in adopting regulations
10 in accordance with the provisions of this chapter, may define "small
11 business" to include a greater number of full-time employees, not to

12 exceed applicable federal standards or five hundred, whichever is less,
13 if necessary to meet the needs and address specific problems of small
14 businesses.

15 (b) Prior to the adoption of any proposed regulation on and after
16 October 1, [1994] 2004, each agency shall first determine if the
17 proposed regulation could have an adverse impact on small businesses
18 and, if so, prepare a regulatory flexibility analysis in which the agency
19 shall [, where consistent] detail how, in a manner consistent with
20 public health, safety and welfare, [consider utilizing] regulatory
21 methods can be used in a manner that will accomplish the objectives of
22 applicable statutes while minimizing any such adverse impact on
23 small businesses. The agency shall consider and detail, without
24 limitation, how use of each of the following methods [of reducing]
25 might reduce the impact of the proposed regulation on small
26 businesses:

27 (1) The establishment of less stringent compliance or reporting
28 requirements for small businesses;

29 (2) The establishment of less stringent schedules or deadlines for
30 compliance or reporting requirements for small businesses;

31 (3) The consolidation or simplification of compliance or reporting
32 requirements for small businesses;

33 (4) The establishment of performance standards for small businesses
34 to replace design or operational standards required in the proposed
35 regulation; and

36 (5) The exemption of small businesses from all or any part of the
37 requirements contained in the proposed regulation.

38 (c) Prior to the adoption of any proposed regulation that may have
39 an adverse impact on small businesses, each agency shall notify the
40 Department of Economic and Community Development of its intent to
41 adopt the proposed regulation. The Department of Economic and
42 Community Development shall advise and assist agencies in

43 complying with the provisions of this section.

44 (d) The requirements contained in this section shall not apply to
45 emergency regulations issued pursuant to subsection (c) of section 4-
46 168; regulations that do not affect small businesses directly, including,
47 but not limited to, regulations concerning the administration of federal
48 programs; regulations concerning costs and standards for service
49 businesses such as nursing homes, long-term care facilities, medical
50 care providers, day care facilities, water companies, nonprofit 501(c)(3)
51 agencies, group homes and residential care facilities; and regulations
52 adopted to implement the provisions of sections 4a-60g to 4a-60i,
53 inclusive.

54 Sec. 2. Section 4-168b of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective from passage*):

56 (a) Each agency shall maintain an official regulation-making record
57 for the period required by law for each regulation it proposes in
58 accordance with the provisions of section 4-168. The regulation-
59 making record and materials incorporated by reference in the record
60 shall be available for public inspection and copying.

61 (b) The agency regulation-making record shall contain: (1) Copies of
62 all publications in the Connecticut Law Journal with respect to the
63 regulation or the proceeding upon which the regulation is based; (2) a
64 copy of any written analysis prepared for the proceeding upon which
65 the regulation is based; (3) all written petitions, requests, submissions,
66 and comments received by the agency and considered by the agency in
67 connection with the formulation, proposal or adoption of the
68 regulation or the proceeding upon which the regulation is based; (4)
69 the official transcript, if any, of proceedings upon which the regulation
70 is based or, if not transcribed, any tape recording or stenographic
71 record of such proceedings, and any memoranda prepared by any
72 member or employee of the agency summarizing the contents of the
73 proceedings; (5) a copy of all official documents relating to the
74 regulation, including the regulation filed in the office of the Secretary
75 of the State, a statement of the principal considerations in opposition to

76 the agency's action, and the agency's reasons for rejecting such
77 considerations, as required pursuant to section 4-168 and the fiscal
78 note prepared pursuant to subsection (a) of said section 4-168 and
79 section 4-170, as amended by this act; (6) a copy of any petition for the
80 regulation filed pursuant to section 4-174; (7) a copy of any regulatory
81 flexibility analysis required pursuant to section 4-168a, as amended by
82 this act; and ~~[(7)]~~ (8) copies of all comments or communications
83 between the agency and the legislative regulation review committee.

84 (c) The agency regulation-making record need not constitute the
85 exclusive basis for agency action on that regulation or for judicial
86 review thereof.

87 Sec. 3. Subsection (b) of section 4-170 of the general statutes is
88 repealed and the following is substituted in lieu thereof (*Effective from*
89 *passage*):

90 (b) (1) No adoption, amendment or repeal of any regulation, except
91 a regulation issued pursuant to subsection (f) of section 4-168, shall be
92 effective until (A) the original of the proposed regulation approved by
93 the Attorney General, as provided in section 4-169, and eighteen copies
94 thereof are submitted to the standing legislative regulation review
95 committee at the designated office of the committee, in a manner
96 designated by the committee, by the agency proposing the regulation,
97 (B) the regulation is approved by the committee, at a regular meeting
98 or a special meeting called for the purpose, and (C) the regulation is
99 filed in the office of the Secretary of the State by the agency, as
100 provided in section 4-172. (2) The date of submission for purposes of
101 subsection (c) of this section shall be the first Tuesday of each month.
102 Any regulation received by the committee on or before the first
103 Tuesday of a month shall be deemed to have been submitted on the
104 first Tuesday of that month. Any regulation submitted after the first
105 Tuesday of a month shall be deemed to be submitted on the first
106 Tuesday of the next succeeding month. (3) The form of proposed
107 regulations which are submitted to the committee shall be as follows:
108 New language added to an existing regulation shall be in capital letters

109 or underlining, as determined by the committee; language to be
110 deleted shall be enclosed in brackets and a new regulation or new
111 section of a regulation shall be preceded by the word "(NEW)" in
112 capital letters. Each proposed regulation shall have a statement of its
113 purpose following the final section of the regulation. (4) The committee
114 may permit any proposed regulation, including, but not limited to, a
115 proposed regulation which by reference incorporates in whole or in
116 part, any other code, rule, regulation, standard or specification, to be
117 submitted in summary form together with a statement of purpose for
118 the proposed regulation. On and after October 1, 1994, if the committee
119 finds that a federal statute requires, as a condition of the state
120 exercising regulatory authority, that a Connecticut regulation at all
121 times must be identical to a federal statute or regulation, then the
122 committee may approve a Connecticut regulation that by reference
123 specifically incorporates future amendments to such federal statute or
124 regulation provided the agency that proposed the Connecticut
125 regulation shall submit for approval amendments to such Connecticut
126 regulations to the committee not later than thirty days after the
127 effective date of such amendment, and provided further the committee
128 may hold a public hearing on such Connecticut amendments. (5) The
129 agency shall prepare a fiscal note, including an estimate of the cost or
130 of the revenue impact on the state and any municipality, and shall
131 append a copy of the note to each copy of the proposed regulation. At
132 the time of submission to the committee, the agency shall mail or
133 submit a copy of the proposed regulation and the fiscal note, prepared
134 in accordance with subsection (a) of section 4-168, to (A) the Office of
135 Fiscal Analysis which, within seven days of receipt, shall submit an
136 analysis of the fiscal note to the committee; and (B) each joint standing
137 committee of the General Assembly having cognizance of the subject
138 matter of the proposed regulation. No regulation shall be found
139 invalid due to the failure of an agency to submit a copy of the
140 proposed regulation and the fiscal note to each committee of
141 cognizance, provided such regulation and fiscal note has been
142 submitted to one such committee. (6) At the time of submission to the
143 committee, the agency shall append a copy such agency's

144 determination that such regulation will not have an adverse impact on
145 small businesses or a copy of the regulatory flexibility analysis
146 required pursuant to section 4-168a, as amended by this act, as
147 applicable, to each copy of the proposed regulation.

148 Sec. 4. (NEW) (*Effective from passage*) The Department of Economic
149 and Community Development shall, within available appropriations,
150 establish a small business office within the department to create a
151 broker-agent system for small businesses that will assess the needs of
152 such businesses, identify the organizations that can address such needs
153 and broker or arrange services on behalf of such businesses.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Department of Economic & Community Development	GF - Cost	See Below	See Below
Various	GF/Various - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Tightening the requirements that state agencies determine how proposed regulations affect small businesses, will impact the workloads of state agencies to various degrees. It is not clear to what extent all state agencies are complying with the current law requiring them to determine a regulatory effect on small business or options that would minimize the effects. Various agencies would realize a minimal workload increase that could be handled within their routine duties.

However, due to the number and scope of regulations required each year, it is estimated that the increase in workload to the Department of Environmental Protection will result in the need for additional resources of approximately \$30,000 to \$50,000 for a part-time analyst or the equivalent and associated expenses. It is also anticipated that the Department of Agriculture could require additional resources depending upon the number and topic of regulations required in a given year.

The bill authorizes the Department of Economic and Community Development (DECD) to establish a small business office. DECD currently has a process in place and works with small business.

OLR Bill Analysis

sSB 259

***AN ACT CREATING A SMALL BUSINESS OFFICE WITHIN THE
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT*****SUMMARY:**

This bill requires the Department of Economic and Community Development (DECD) to establish, within available appropriations, a small business office. The office must create a system of broker-agents to help small businesses assess their needs, identify the organizations that can address those needs, and broker and arrange services from these organizations on behalf of the small businesses.

The bill requires agencies to explain why a proposed regulation does not adversely affect small business and thus does not require the statutory regulatory flexibility analysis. The law requires agencies to prepare the analysis for each proposed regulation. In doing so, the agencies must consider regulatory options that would minimize the adverse impact on small businesses and still accomplish the regulation's purpose without compromising public health, safety, and welfare. Agencies must include these options in the fiscal note attached to the proposed regulation when they submit it to the Regulations Review Committee. In practice, agencies rarely submit the analyses to the committee.

The bill requires agencies to include their explanations as to why a proposed regulation does not adversely affect small businesses in their agency regulation-making records. They must begin doing this with respect to any regulation they propose on or after October 1, 2004. The bill also requires them to attach a copy of the explanation or the regulatory flexibility analysis to the proposed regulation when they submit it the Regulations Review Committee for approval. (The law already requires the agency to include the regulatory flexibility analysis in the fiscal note, which it must also submit to the committee.)

EFFECTIVE DATE: Upon passage

BACKGROUND

Regulatory Flexibility Analysis

The law requires agencies to:

1. analyze how their proposed regulations affect small businesses and consider alternatives that could ease the particular burdens on them,
2. consider other regulatory options that could reduce any adverse effects the regulations might have on such businesses, and
3. notify DECD about those regulations that could adversely affect small businesses.

A small business is one with fewer than 50 full-time employees or annual gross sales under \$ 5 million.

The requirements do not apply to:

1. emergency regulations;
2. regulations that indirectly affect small businesses;
3. regulations setting cost standards for service businesses, such as nursing homes and long-term care facilities; and
4. regulations governing the state's program for setting aside contracts for small and minority-owned businesses.

Legislative History

On March 31, the Senate referred the bill (File 256) to the Government Administration and Elections Committee, which deleted a \$100,000 appropriation for DECD's small business office and favorably reported the substitute bill on April 7.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 26 Nay 0

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17 Nay 0